



**ENHANCE ★ PROTECT ★ CONSERVE**

## **REQUEST FOR QUALIFICATIONS**

**For**

**Management Consultant for the Office of Marine Patrol**

**RFQ# 15-103**

**Mississippi Department of Marine Resources  
1141 Bayview Avenue  
Biloxi, MS 39530  
(228) 374-5000**

**Contact Person:**

**Sonja Slater, Procurement Officer and Tidelands Program Coordinator**

**Mississippi Department of Marine Resources  
1141 Bayview Avenue  
Biloxi, MS 39530  
(228) 374-5000**

**To:** Prospective Offerors

**From:** Mr. Jamie M Miller, Executive Director, Mississippi Department of Marine Resources (MDMR)

**Subject:** Request for Statements of Qualifications to provide managerial Consultant Services for the Office of Marine Patrol.

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## **1.0 SERVICES AND PRICES**

The Mississippi Department of Marine Resources ("MDMR") located in Biloxi, MS, is seeking sealed Statements of Qualifications to establish a contract for certain professional services ("Contractor") at the MDMR's facilities. These service requirements are detailed in 1.1 Statement of Work.

A Contract may be awarded to the individual, entity, firm, or firms, whose Statement of Qualifications is determined to be the most advantageous to the MDMR. The factors to be considered in the evaluation of submissions and their relative importance are set forth.

### **1.1 STATEMENT OF WORK**

The Scope of Work for this contract may include but is not limited to the following tasks:

- 1) Provide a structure for processing problematic and difficult employees as well as a reward system for exceptional employees.
- 2) Provide a comprehensive policies and procedures manual to include, but not limited to the following:
  - a) Office of Marine Patrol Structure
  - b) Staffing needs
  - c) Internal classification within the Marine Patrol
  - d) Work flow analysis
  - e) Job description(s)
  - f) Compensation analysis of the organizational structure

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- g) Use of Force
  - h) Rules of Conduct
  - i) Taser Policy
  - j) Marine Patrol Reserve Division
- 3) Prepare recommendations to improve efficiency, maximize agency effectiveness, strengthen public transparency and ensure operational integrity.
  - 4) Perform other related activities, organizational and operational assessment.
  - 5) The prospective candidate must possess the following minimum qualifications: 15 years law enforcement experience; served as a command staff member for a law enforcement agency; must have experience with handling internal disciplinary problems involving employees; experience managing multiple, concurrent projects with strong problem solving and follow-through capabilities; possess skills in conflict resolution; problem solving; analytical and critical thinking; strong interpersonal communication and possess a strong ability for strategic planning. Preferred experience includes the following: experience in internal affairs investigations; and conducted internal audits.
  - 6) It is preferred the candidate be a graduate from either the Federal Bureau of Investigation (FBI) National Academy or the Southern Police Institute (SPI).
  - 7) Other duties assigned as deemed necessary by the Chief of Marine Patrol.

The resources employed to complete this work can reside within the contractor's firm, be acquired by the contractor. MDMR cooperation, staff, resources and data will be offered to every extent possible.

### 2.0 TIMELINE

<b>Invitation for Bid Issue Date:</b>	<b>June 3, 2015, Wednesday 10:00A.M.</b>
<b>Ads to run in the Paper:</b>	<b>June 3, 2015 and June 10, 2015</b>
<b>Bid Package Submission Deadline:</b>	<b>June 24, 2015, Wednesday 10:00 A.M. CST</b>
<b>Bid Opening:</b>	<b>June 24, 2015, Wednesday 10:00A.M. CST</b>
<b>Notification of Successful Bidder:</b>	<b>June 25, 2015</b>

### 3.0 MDMR CONTACT AND QUESTIONS/REQUESTS FOR CLARIFICATION

- 3.1. All questions, requests for clarification, and bids **should** be submitted through the Magic portal at: <http://www.mmrs.state.ms.us/vendors/index.shtml> or by paper addressed as follows: MDMR, Attn: Sonja Slater, 1141 Bayview Ave., Biloxi, MS 39530 or by email [sonja.slater@dmr.ms.gov](mailto:sonja.slater@dmr.ms.gov).
- 3.2. The MDMR will not be bound by any verbal or written information that is not specified within this RFQ unless formally notified and issued by the contact person.
- 3.3. Should an amendment to the RFQ be issued, it will be posted on the MDMR website (<http://www.dmr.ms.gov>) and the Magic Portal (<http://www.mmrs.state.ms.us/vendors/index.shtml>) in a manner that all bidders will be able to view. Further, bidders must acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid, by identifying the amendment number and date in the space provided for this purpose on the bid form. The acknowledgment must be received through

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the Magic Portal System. It is the bidder's sole responsibility to monitor the website for amendments to the RFQ.

- 3.4. All questions and answers will be published on the MDMR website (<http://www.dmr.ms.gov>) and the Magic Portal <http://www.mmrs.state.ms.us/vendors/index.shtml> in a manner that all bidders will be able to view.

### 4.0 VENDOR REGISTRATION/PROPOSAL SUBMISSION REQUIREMENTS

This Request for Statements of Qualifications (RFQ) is issued for the State of Mississippi by the MDMR. The MDMR reserves the right, without qualification, to select any Statement of Qualifications as a basis for negotiation, to reject all Statements of Qualifications not meeting minimum requirements, and to exercise its discretion and apply its judgment with respect to any Statement of Qualifications submitted. Statements of Qualifications may be submitted by mail or electronically through the Magic Portal as outlined below:

#### 4.1. Electronic Submission

Please note: It shall be the responsibility of each vendor to ensure that the bidder profile is current in our e-procurement system. The website to register as a vendor with the State of Mississippi is: <http://www.mmrs.state.ms.us/vendors/index.shtml>.

For online learning instructions on submitting your Proposal electronically, select "Supplier Training" from the link listed above. Select the LOG820 Supplier Self-Service Course link and then click "Launch Course."

- 4.2. **If you have problems getting on the website, please contact the Mash Helpdesk at (601) 359-1343 or [mash@dfa.ms.gov](mailto:mash@dfa.ms.gov). You must receive a User ID and Password to access MAGIC's portal. This process could take up to 72 hours to complete. You may also contact Sonja Slater at (228) 523-4138 or email [sonja.slater@dmr.ms.gov](mailto:sonja.slater@dmr.ms.gov).**

#### 4.3. Electronic Submission

1. The Statement of Qualification package shall be submitted in Magic no later than **10:00 AM CST, Wednesday, June 24, 2015**.
2. Timely submission of the bid package is the responsibility of the bidder. Bids received after the specified time will be rejected and returned to the bidder unopened. All bids must be submitted through Magic.
3. The MDMR reserves the right to decide, on a case-by-case basis, whether to reject a bid with modifications or additions as nonresponsive.
4. As a precondition to bid acceptance, the MDMR may request the bidder to withdraw or modify any portion of the bid deemed nonresponsive that does not affect quality, quantity, price, or delivery of the service.

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5. Any bidder claiming that its response contains information exempt from the Mississippi Public Records Act (*Miss. Code Ann. § 25-61-1, et. seq.*), shall segregate and mark the information as confidential and provide the specific statutory authority for the exemption.
6. The bidder should submit all attachments.

**4.4. Paper Submission Requirements**

The bid package must be sealed and must contain the following:

- 4.4.1 Bid Cover Sheet (**Attachment A**).
- 4.4.2 Bid Form (**Attachment B**) – all pricing must be submitted on the bid form.
- 4.4.3 The bid package shall be signed and submitted in a sealed envelope or package to 1141 Bayview Avenue, Biloxi MS 39530 no later than **10:00 AM CST, Wednesday, June 24, 2015**.
- 4.4.4 Timely submission of the bid package is the responsibility of the bidder. Bids received after the specified time will be rejected and returned to the bidder unopened.
- 4.4.5 The envelope or package shall be marked with the bid opening date and time, and the number of the invitation for bids (**10:00 AM CST, Wednesday, June 24, 2015; RFQ No.15-103**).
- 4.4.6 The time and date of receipt will be indicated on the envelope or package by the MDMR staff.
- 4.4.7 Each page of the bid form and all attachments shall be identified with the name of the bidder.
- 4.4.8 Failure to submit a bid on the bid form provided will be considered cause for rejection of the bid. **Modifications or additions to any portion of the bid document may be cause for rejection of the bid.**
- 4.4.9 The MDMR reserves the right to decide, on a case-by-case basis, whether to reject a bid with modifications or additions as nonresponsive.
- 4.4.10 As a precondition to bid acceptance, the MDMR may request the bidder to withdraw or modify those portions of the bid deemed nonresponsive that do not affect quality, quantity, price, or delivery of the service.
- 4.4.11 Any bidder claiming that its response contains information exempt from the Mississippi Public Records Act (*Miss. Code Ann. § 25-61-1, et. seq.*), shall segregate and mark the information as confidential and provide the specific statutory authority for the exemption.
- 4.4.12 All Statement of Qualifications packages must be received by MDMR no later than **10:00 AM CST, Wednesday, June 24, 2015**. Bids submitted via facsimile (faxes) **will not be**

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accepted. It is suggested that if a bid is mailed to MDMR, it should be posted in certified mail with a return receipt requested. MDMR will not be responsible for mail delays or lost mail.

**4.4.13** Statement of Qualifications package should also include the following: Bid number, opening date, Agency's name and address, and contact person.

**4.4.14** Sealed bids should be mailed or hand delivered to and labeled as follows:

**"Management Consultant for the Office of Marine Patrol"**

RFQ No. 15-103

Opening Date: **10:00 AM CST, June 24, 2015**

Mississippi Department of Marine Resources

Attention: Sonja Slater

1141 Bayview Avenue

Biloxi MS 39530

**SEALED STATEMENT OF QUALIFICATIONS - DO NOT OPEN**

Offeror's Statement of Qualifications must contain the following minimum information:

- a) Statement of Qualifications shall be submitted in sealed envelopes or packages addressed to MDMR as specified above.
- b) One (1) original and two (2) copies shall be submitted.
- c) Name of offeror; location of offeror's principal place of business; the place of performance of the proposed contract.
- d) Age and size of offeror's business.
- e) Resume listing abilities, Statement of Qualifications and experience of all Firm/Team who will be assigned to provide the required services.
- f) All Statements of Qualifications material submitted in writing shall become the property of the MDMR.

#### **4. Proprietary Information/Mississippi Public Records Act.**

Statements of Qualifications will be made available for inspection only after award of contract. For this reason, proprietary material should be clearly labeled as such. The classification of an entire Statement of Qualifications as proprietary or trade secret is not acceptable and may result in rejection of the Statement of Qualifications. Requests to review proprietary information will be handled in accordance with state law and applicable procedures. All disclosures of Statements of Qualifications information to interested parties will be made in compliance with MDMR policies and procedures established in accordance with the Mississippi Public Records Act of 1983 defined in Section 25-61-1 et seq., of the Mississippi Code and exceptions found in Sections 25-61-9 and 79-23-1.

#### **5. Acceptance of Statement of Qualifications**

The MDMR reserves the right, in its sole discretion, to waive minor irregularities in Statements of Qualifications. Waivers, when granted, shall in no way modify the RFQ requirements or excuse a party

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from full compliance with the RFQ specifications and other contract requirements if the party is awarded the contract.

### 6. Rejection of Statement of Qualifications

Any Statement of Qualifications may be rejected in whole or in part when it is determined to be in the best interest of the MDMR, as provided by the Personal Service Contract Review Board regulations. Reasons for rejecting the Statement of Qualifications include, but are not limited to:

- a) The Statement of Qualifications contains unauthorized amendments to the requirements of the RFQ.
- b) The Statement of Qualifications is conditional.
- c) The Statement of Qualifications is incomplete or contains irregularities, which make the Statement of Qualifications indefinite or ambiguous.
- d) The Statement of Qualifications is not signed by an authorized representative of the party.
- e) The Statement of Qualifications contains false or misleading statements or references.
- f) The offeror is determined to be non-responsible.
- g) The Statement of Qualifications ultimately fails to meet the announced requirements of the MDMR in some material aspect.
- h) The Statement of Qualifications is not responsive, i.e., does not conform in all material aspects to the RFQ.
- i) The supply or service item offered in the Statement of Qualifications is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternative or other acceptability criteria set forth in the RFQ.
- j) If the minimum qualifications stated above are not met, the offeror will be disqualified.

### 7. Disposition of Statements of Qualifications

All submitted Statements of Qualifications become the property of the State of Mississippi.

### 8. Conditions of Solicitation

The release of this RFQ does not constitute an acceptance of any offer, nor does such release in any way obligate the MDMR to execute a contract with any party. The MDMR reserves the right to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this document. The final decision to execute a contract with any party rests solely with the MDMR.

Before preparing the Statement of Qualifications, all parties should note:

- a) The MDMR will not be liable for any costs associated with the preparation of the Statement of Qualifications.
- b) The award of a contract for any Statement of Qualifications is contingent upon the following:
  - 1) favorable evaluation of the Statement of Qualifications.
  - 2) successful negotiations of agreed upon price.

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- c) Contracted parties will be required to assume full responsibility for all specified services and may subcontract only as specified in the RFQ.

## **9. Withdrawal of Statement of Qualifications**

Statements of Qualifications may be withdrawn by written notice received at any time before award.

## **10. Statement of Qualifications Modifications**

Any requests to modify the Statement of Qualifications must be submitted in writing by the Primary offeror. All requests for modifications must be submitted prior to the application submission deadline.

## **11. Amendments to Statement of Qualifications Specifications**

The MDMR reserves the right to issue amendments to these guidelines. If it becomes necessary to amend said guidelines, the MDMR will provide copies of the amendments to all persons known to have requested a copy of the RFQ.

## **12. Acknowledgement of Amendments**

Offerors shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the Statement of Qualifications, by identifying the amendment number and date in the space provided for this purpose on the amendment form, or by letter. The acknowledgement must be received by the MDMR by the time and at the place specified for receipt of the Statement of Qualifications.

## **13. Information Regarding References**

It is understood and agreed that the MDMR reserves the right to request information relative to references.

## **14. Award**

The award, if made, will be by the MDMR within 15 days after opening the Statements of Qualifications. After the award is made by the MDMR, a contract will be forwarded to your company for approval and execution. Actions taken by a proposer prior to the final approval of the contract will be at the Proposer's "OWN RISK" and the MDMR is not liable for such action. In the event the successful Offeror fails to accept and sign the mutually negotiated contract, that Offeror is disqualified and the MDMR will initiate negotiations with the next highest ranked Offeror or cancel the procurement.

## **15. Governing Law**

This solicitation and any resulting contract are governed in all respects by the laws of the State of Mississippi and any litigation with respect thereto must be brought in the courts of Jackson, Hinds County, Mississippi.



## 16. Certification of Independent Price Determination

The offeror certifies that the prices submitted in response to the solicitation have been arrived at independently and without (for the purpose of restricting competition) any consultation, communication or agreement with any other offeror or competitor relating to those prices, the intention to submit a Statement of Qualifications, or the methods or factors used to calculate the prices proposed.

## 17. Evaluation Process

Statements of Qualifications will be evaluated as described in this section. The award will be made to the best Statement of Qualifications and following successful negotiations. The criteria and the level of importance associated with each criterion are listed. The criteria for selecting the successful contractor are the following:

- a) Qualifications - List of qualifications of each staff person to be assigned to project.
- b) Experience - Information regarding the experience of each staff member assigned to the project. This should include types of similar projects and work experience in this field, as well as, specific Coastal Mississippi experience previously undertaken.
- c) Capacity for Performance - Identify the title of staff available to be assigned to provide each of the items listed in the Statement of Work.
- d) Availability - Listed staff are locally stationed and available (within 100 miles).

All submissions will be rated upon the following system to determine the best proposer.

Description and Maximum Points:

Qualifications - 15; Experience - 50; Capacity - 10; Availability - 25; Total - 100 points.

The score will be indicative of the degree of compliance of the Statements of Qualifications in meeting each component of the requirements in this RFQ. Firm/Team must, upon request of the MDMR, furnish satisfactory evidence of their ability to provide services in accordance with the terms and conditions of these requirements. The MDMR may obtain information about the terms and conditions of these requirements. The MDMR may obtain information about the Firm/Team's ability to meet requirements through reference checks or any other means available.

NOTE: The MDMR will restrict the availability of the Statements of Qualifications during the evaluation process so as to improve the efficiency of the evaluation and award process. After award is made, all information and documents applicable to the awarded contract will be available to any business or person during normal working hours.

## 18. Contract Documents

Prospective Contractors are advised that this RFQ and their Statement of Qualifications, should it be accepted, will become part of the final contract. Precedence of contractual documents will be contract, RFQ, and Statement of Qualifications (as accepted).

## **5.0 PERIOD OF PERFORMANCE**

The period of performance of this Professional Contract shall commence upon execution by the Executive Director of MDMR but not before **August 3, 2015** and end no later than **August 3, 2016**. If deemed necessary, this contract can be renewed on an as needed basis subject to the availability of projects or funds; however, any contract extension shall be under the same prices, terms, and conditions as in the original contract, and shall be agreed to, in writing, by the MDMR and the Contractor. The period of performance under the initial contract term and under any extension shall be conditioned upon the receipt of funds and satisfactory performance as determined by the MDMR.

## **6.0 RELATIONSHIP OF PARTIES**

It is expressly understood and agreed that MDMR enters into a contract with a Contractor based on the purchase of Professional services and not based on an employer-employee relationship or a joint venture relationship. For all purposes under this contract:

- a) The Contractor shall not be deemed in any way, directly or indirectly, expressly, or by implication, to be an employee of MDMR.
- b) Amounts paid to the Contractor under a contract will be paid as a gross sum with no withholdings or deductions being made by MDMR for any purpose.

## **7.0 RENEWAL OF CONTRACT**

If deemed necessary, this contract can be renewed on an as needed subject to the availability of projects or funds; however, any contract extension shall be under the same prices, terms, and conditions as in the original contract, and shall be agreed to, in writing, by the State and the Contractor.

## **8.0 CONTRACT ADMINISTRATION**

The contract awarded subsequent to this solicitation shall be administered by the MDMR. All invoices submitted by the Contractor for payment of services performed pursuant to the contract shall be submitted as follows:

Sonja Slater, Procurement Officer/Tideland Program Coordinator  
Mississippi Department of Marine Resources  
1141 Bayview Avenue  
Biloxi, MS 39530

The MDMR will provide timely payment for services in accordance with Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment by the MDMR within forty-five (45) days of receipt of the invoice.

## **9.0 CONTRACTOR SPECIFIC REQUIREMENTS**

No additional requirements

## 10.0 COMPENSATION FOR SERVICES

Compensation for services will be in the form of an hourly rate. The hourly rate will cover all hours, including hours outside of the normal business day and weekends. Contractor will bill actual hours for services performed. The Contractor understands and agrees that MDMR is exempt from the payment of taxes.

## 11.0 REQUIREMENTS FOR STATEMENT OF QUALIFICATIONS

### a) References:

Each prospective Contractor must furnish, with their Statement of Qualifications, a listing of at least three (3) references. These references should be familiar with the offeror's abilities in the areas involved with this solicitation. The list shall include the name and telephone number of the reference. MDMR will use these references to evaluate the prospective Contractor's ability to perform the services.

### b) Resume:

Offeror must include a resume that includes education and experience in the areas described in 1.1 Statement of Work. The MDMR will use the resume to evaluate the prospective Contractor's experience and Statement of Qualifications to perform the required services.

### c) Additional information:

Prospective Contractor must furnish information about similar work performed and any other information that demonstrates the offeror's expertise and abilities in the areas of the solicitation. MDMR will use this information to evaluate the prospective Contractor's abilities, Statement of Qualifications, and experience.

## 12.0 LIST OF ATTACHMENT AND FORMS

The following are included as attachments to this request. **Attachment A must be completed and submitted as part of the Statement of Qualifications.**

Attachment A - Vendor Statement of Compliance (to be signed by offeror)

## 13.0 STANDARD TERMS AND CONDITIONS

### 13.1. Applicable Laws.

This Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflict of law provisions, and any litigation with respect thereto shall be brought in the courts of the state. The Contractor shall comply with applicable federal, state and local laws and regulations.

### **13.2. Representation Regarding Gratuities.**

The Independent Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.

### **13.3. Representation Regarding Contingent Fees.**

The Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

### **13.4. Compliance with Laws.**

The Independent Contractor understands that the MDMR is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now exist and as may be amended or modified.

### **13.5. Availability of Funds.**

It is expressly understood and agreed that the obligation of the MDMR to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the MDMR, the MDMR shall have the right upon ten (10) working days written notice to the Contractor, to terminate this agreement without damage, penalty, cost or expenses to the MDMR of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

### **13.6. Changes.**

This agreement shall not be modified, altered, or changed except by the mutual agreement by an authorized representative of each party to this agreement and must be confirmed in writing through the MDMR.

### **13.7. Oral Statements.**

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this agreement. All modifications to this agreement must be made in writing by the MDMR.

### **13.8. Procurement Regulations.**

The contract shall be governed by the applicable provisions of the Personal Service Contract Review Board Regulations, a copy of which is available at 301 North Lamar Street, Jackson, Mississippi, for inspection.

### **13.9. Anti-Assignment/Subcontracting.**

The Contractor acknowledges that it was selected by the MDMR to perform the services required hereunder based, in part, upon the Contractor's special skills and expertise. The Contractor shall not assign, subcontract or otherwise transfer this agreement in whole or in part without the prior written consent of the MDMR, which the MDMR may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the MDMR of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the MDMR in addition to the total fixed price agreed upon in this agreement. Sub-Contractors shall be subject to the terms and conditions of this agreement and to any conditions of approval that the MDMR may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

### **13.10. Force Majeure.**

Each party shall be excused from performance of any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its Sub Contractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the Force Majeure Events"). When the cause of its inability to perform; how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the MDMR determines it to be in its best interest to terminate the agreement.

### **13.11. Stop Work Order**

#### **13.11.1 Order to Stop Work**

The MDMR, may, by written order to the Contractor at any time, and without notice to any surety, require the Contractor to stop all work or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to the Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause.

Upon receipt of such an order, the Independent Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop either:

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- a) cancel the stop work order; or
- b) terminate the work covered by such order as provided in the "Termination for Default Clause" or the "Termination for Convenience Clause" of this contract.

### **13.11.2 Cancellation or Expiration of the Order**

If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Independent Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Independent Contractor price, or both, and the contract shall be modified in writing accordingly, if:

- (a) the stop work order results in an increase in the time required for, or in the Independent Contractor's cost properly allocable to, the performance of any part of this contract; and
- (b) the Independent Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the MDMR decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

### **13.11.3 Termination of Stopped Work**

If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

### **13.11.4 Adjustments of Price**

Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract.

## **14.0 TERMINATION FOR CONVENIENCE CLAUSE**

**14.1** *Termination.* The MDMR may, when the interests of the state so require, terminate this contract in whole or in part, for the convenience of the state. The MDMR shall give thirty (30) days written notice of the termination to the Independent Contractor specifying the part of the contract terminated and when termination becomes effective.

**14.2** *Independent Contractor's Obligations.* The Independent Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Independent Contractor will stop work to the extent specified. The Independent Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Independent Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and order connected with the terminated work. The MDMR may direct the Independent Contractor to assign the Independent Contractor's right, title, and interest under terminated orders or subcontracts to the MDMR. The Independent Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

### **14.3 Termination for Default Clause**

- a) *Default.* If the Independent Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this

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contract, or any extension thereof otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, or fails to fulfill its obligations under this agreement, or if the Independent Contractor violates any of the conditions or stipulations contained in this Agreement, the MDMR may notify the Independent Contractor in writing of the delay or nonperformance and if not cured in ten days or any longer time specified in writing by the MDMR, such officer may terminate the Independent Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, specifying the effective date thereof. In this event, the Independent Contractor shall be entitled to receive just and equitable compensation for any work performed through the effective date of such termination, provided that the MDMR Executive Director determines that costs incurred were done so in compliance with the provisions stated in this document. In the event of termination in whole or in part, the MDMR may procure similar supplies or services in a manner and upon terms deemed appropriate by the MDMR. The Independent Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

- b) *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the MDMR, the Independent Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Independent Contractor in which the state has an interest.
- c) *Compensation.* Payment for completed services delivered and accepted by the MDMR shall be at the contract price. The MDMR may withhold from amounts due the Independent Contractor such sums as the MDMR deems to be necessary to protect the MDMR against loss because of outstanding liens or claims of former lien holders and to reimburse the MDMR for the excess costs incurred in procuring similar goods and services.
- d) *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults or sub-Contractors, the Independent Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Independent Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if the Independent Contractor has notified the MDMR within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the state and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a sub-Contractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Independent Contractor shall not be deemed to be in default, unless the services to be furnished by the sub-Contractor were reasonably obtainable from other sources in sufficient time to permit the Independent Contractor to meet the contract requirements.

Upon request of the Independent Contractor, the MDMR shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the

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Independent Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the state under the clause entitled (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). (As used in this paragraph of this clause, the term "sub-Contractor" means sub-Contractor at any tier).

- e) *Erroneous Termination for Default.* If, after notice of termination of the Independent Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of paragraph (8.35.4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the state, be the same as if the notice of termination had been issued pursuant to such clause.
- f) *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law under this contract.

### 15.0 ADDITIONAL TERMS AND CLAUSES

- 15.1 Attorneys' Fees and Expenses.** Subject to other terms and conditions of this agreement, in the event the Contractor defaults in any obligations under this agreement, the Contractor shall pay to the MDMR all costs and expenses (including, without limitation, investigative fees, court costs, and attorneys' fees) incurred by the MDMR in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorneys' fees or costs of legal action to the Contractor.
- 15.2 Authority to Contract.** The Contractor warrants (a) that it is a Contractor; (b) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind, and (c) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceeding or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.
- 15.3 Indemnification.** To the fullest extent allowed by law, the Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the MDMR, its commissioners, Broad Members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands liabilities, suits, actions damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorney's fees. arising out of or caused by the Contractor and/or its partners, principals, agents, employees and/or Subcontractors in the performance of or failure to perform this agreement. In the State's sole discretion, the Contractor may be allowed to control the defense of any such claim, suit, etc. In the event the Contractor defends said claim, suit, etc., the Contractor shall use legal counsel acceptable to the State; the contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the MDMR shall be entitled to participate in said defense. The Contractor shall not settle any claim, suit, etc. without the State's concurrence, which the MDMR shall not unreasonable withhold.



- 15.4 Contractor Personnel.** MDMR shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or Subcontractors assigned to the work by the Contractor. If MDMR reasonably rejects staff or Subcontractors, the Contractor must provide replacement staff or Subcontractors satisfactory to MDMR in a timely manner and at no additional cost to MDMR. The day-to-day supervision and control of the Contractor's employees and Subcontractor is the sole responsibility of the Contractor.
- 15.5 Ownership of Documents.** The MDMR shall own all documents, files, reports, and working documentation, electronic or otherwise, created in connection with the Project which is the subject of this Agreement, except for the Contractor's internal administrative and quality assurance files and internal Project correspondence. The Contractor shall deliver such documents to MDMR upon termination or completion of the Agreement. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such work papers for its files. Independent Contractor shall be entitled to use such work papers only after receiving written permission from the MDMR and subject to any copyright protections.
- 15.6 Paymode.** Payments by state agencies using the Statewide Automated Accounting System shall be made and remittance information provided electronically as directed by the MDMR. These payments shall be deposited into the bank account of the Contractor's choice. The MDMR may, at its sole discretion, require the Contractor to submit invoices and supporting documentation electronically at any time during the term of this Agreement. Contractor understands and agrees that the MDMR is exempt from the payment of taxes. All payments shall be in United States currency.
- 15.7 E-Payment.** Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The MDMR agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the MDMR within forty-five (45) days of receipt of invoice. Miss Code Ann. § 31-7-305(1972, as amended).
- 15.8 E-Verify Program.** Independent Contractor/Seller represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act (Senate Bill 2988 from the 2008 Regular Legislative Session) and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program. Contractor/Seller agrees to maintain records of each such compliance and, upon request of the MDMR, to provide a copy of each such verification to the MDMR.

Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Independent Contractor/Seller understands and agrees that any breach of these warranties may subject Independent Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any

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license, permit, certification or other document granted to Independent Contractor/Seller by an agency, department or government entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the MDMR due to contract cancellation or loss of license or permit.

- 15.9 Confidentiality.** The Contractor shall agree to assure the confidentiality of any records obtained for the MDMR as required by state and federal privacy laws. No information, documents, or other material provided to or prepared by the contractor deemed confidential by MDMR pursuant to state and federal privacy laws, shall be made available to any person or organization without the prior approval MDMR. Any liability resulting from the wrongful disclosure of confidential information on the part of the contractor shall rest with the contractor.
- 15.10 Transparency.** This contract, including any accompanying exhibits, attachments, and appendices, is subject to the “Mississippi Public Records Act of 1983,” and its exceptions. See Miss. Code Ann. §§ 25-61-1 *et seq.* (1972, as amended) and Miss. Code Ann. § 79-23-1 (1972, as amended). In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Miss. Code Ann. §§ 27-104-151 *et seq.* (1972, as amended). Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration’s independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Independent Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.
- 15.11 Anti-Assignment/Subcontracting.** The Contractor acknowledges that it was selected by the MDMR to perform the services required hereunder based, in part, upon the Contractor's special skills and expertise. The Contractor shall not assign, subcontract or otherwise transfer this agreement in whole or in part without the prior written consent of the MDMR, which the MDMR may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the MDMR of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the MDMR in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the MDMR may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.
- 15.12 Antitrust.** By entering into a contract, the Contractor conveys, sells, assigns, and transfers to the MDMR all rights, titles, and interest it may now have or hereafter acquire under the antitrust laws of the United States and the MDMR that relate to the particular goods or services purchased or acquired by the MDMR under said contract.
- 15.13 Change in Scope of Work.** The MDMR may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims

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may be made by the Contractor that the scope of the project or of the Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the MDMR and the Contractor.

**15.14 Failure to Enforce** Failure by MDMR at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of MDMR to enforce any provision at any time in accordance with its terms.

**15.15 Independent Contractor Status.** The Contractor shall, at all times, be regarded as an independent Contractor and shall at no time act as an agent for the MDMR. Nothing contained herein shall be deemed or construed by the MDMR, the Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint venturers, employer and employee, or any similar such relationship between the MDMR and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the MDMR or the Contractor hereunder, create or shall be deemed to create a relationship other than the independent relationship of the MDMR and the Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the MDMR. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents or employees of MDMR; and MDMR shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. MDMR shall not withhold from the contract payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Further, MDMR shall not provide to the Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by the state for its employees.

**15.16 Notices.** All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by Certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

**For the Contractor: name, title, contractor, address**

**For the MDMR:** Sonja Slater, Procurement Officer/Tideland Coordinator  
Mississippi Department of Marine Resources  
1141 Bayview Avenue  
Biloxi MS 39530

**15.17 Oral Statements.** No Oral Statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by MDMR.

- 15.18 Record Retention and Access to Records.** Provided the Contractor is given reasonable advance written notice and such inspection is made during normal business hours of the Contractor, the MDMR or any duly authorized representatives, shall have unimpeded, prompt access to any of the Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the Project for the purpose of making audits, examination, excerpts, and transcriptions. All records related to this Agreement shall be retained by the Contractor for three (3) years after final payment is made under this Agreement and all pending matters are closed. However, if any audit, litigation or other action arising out of or related in any way to this Project is commenced before the end of the three (3) years period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.
- 15.19 Recovery of Money.** Whenever, under the contract, any sum of money shall be recoverable from or payable by the Contractor to MDMR, the same amount may be deducted from any sum due to the Contractor under the contract or under any other contract between the Contractor and the Mississippi State Personnel Board. The rights of MDMR are in addition and without prejudice to any other right MDMR may have to claim the amount of any loss or damage suffered by MDMR on account of the acts or omissions of the Contractor.
- 15.20 State Property.** Contractor will be responsible for the proper custody and care of any State-owned property furnished for Contractor's use in connection with the performance of this agreement. Contractor will reimburse the MDMR for any loss or damage, normal wear and tear excepted.
- 15.21 Third Party Action Notification.** Contractor shall give MDMR prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this agreement.
- 15.22 Unsatisfactory Work.** If at any time during the contract term, the service performed or work done by the Contractor is considered by MDMR to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, the Contractor shall, on being notified by MDMR, immediately correct such deficient service or work. In the event the Contractor fails, after notice, to correct the deficient service or work immediately, MDMR shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of the Contractor.
- 15.23 Waiver.** No delay or omission by either party to this agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this agreement shall be valid unless set forth in writing by the party making said waiver. No waiver or modification to any term or condition of this agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.

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**Attachment A**

**Mississippi Department of Marine Resources**

**Conflict of Interest Statement**

Agency Name: \_\_\_\_\_

Agency Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Number: \_\_\_\_\_

In an effort to avoid any potential or perceived conflicts of interest, the Mississippi Department of Marine Resources (MDMR) request that you read and complete the following information as it relates to your Tidelands Grant Award.

The Mississippi Department of Marine Resources (MDMR) defines conflict of interest in the following manner.

It shall be a breach of ethical standards for any grantee to participate directly or indirectly in a procurement/grant award when the grantee knows that:

- The grantee or any member of the grantee's immediate family has a financial interest pertaining to the grant award.
- A business or organization in which the grantee, or any member of their immediate family, has an interest pertaining to the grant award.
- Any other person, business, or organization with whom the grantee or any member of their family is negotiating or has an arrangement concerning prospective employment is involved in the grant award process.
- Any MDMR employee or immediate family member serving on your MDMR or working with your organization. Please explain how you will resolve this conflict as it relates to the National Fish & Wildlife Grant.

Therefore, the Mississippi Department of Marine Resources (MDMR) requests that your agency list any potential/perceived conflicts of interests below. Please give a brief explanation as to how your agency plans to resolve the conflict. (Note: The list above is not all inclusive, if you feel there is a conflict list it).

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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**Attachment B- PROPOSAL FORM**

**MISSISSIPPI DEPARTMENT OF MARINE RESOURCES  
1141 BAYVIEW AVENUE, SUITE 101  
BILOXI, MS 39530**

This is to certify that the offeror submitting this written proposal has been in business since \_\_\_\_\_  
Employer Identification Number: \_\_\_\_\_ (Date)

Prior Project of Comparable Complexity: (Project, Location, Reference Person, Phone Number)

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

**NOTE: PLEASE USE A SUPPLEMENTAL SHEET TO DISCUSS SCOPE OF PROJECTS LISTED ABOVE.**

**Attach plan giving as much detail as is practical explaining how the services will be performed.**

Time frame for completion of project: \_\_\_\_\_

Price #1 (total price for all services listed): \$ \_\_\_\_\_

Offeror's Name: \_\_\_\_\_

Address/Principal Place of Business: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Size of Business: \_\_\_\_\_

Address /Place of Performance of Proposed Contract: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

**CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

The offeror certifies that the prices submitted in response to the solicitation have been arrived at independently and without – for the purpose of restricting competition – any consultation, communication, or agreement with any other offeror or competitor relating to those prices, the intention to submit a proposal, or the methods or factors used to calculate prices.

**PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES**

The prospective contractor represents as a part of such contractor's proposal that such contractor has/has not (circle applicable word or words) retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract. (If yes, fully disclose details of the arrangement within the proposal.) Please accept this as my/our formal proposal for the complete specifications in all areas as specified by the Mississippi Department of Marine Resources.

SIGNED BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

**NOTE: All information requested on this proposal form must be completed. Incomplete or unsigned forms will be rejected.**